

### REMARKS/ARGUMENTS

Pending claims 9-12, 23-26, 31-33, and 37 stand rejected under 35 U.S.C. §102(e) over European Patent Application Number EP 1 143 667 (Karves). Karves is not an appropriate reference under §102(e), as it is not a publication under PCT Article 21 (2). Accordingly, under MPEP §20136.03 Karves may only be applied as prior art under §102(a) as of its publication date, namely October 10, 2001.

Attached hereto as Appendix A is a Declaration under 37 C.F.R. §1.131, which evidences conception of all of the above claims prior to that publication date, coupled with diligence from such conception until filing of the present application. Specifically, Exhibit A to the Declaration is an Invention Disclosure Form that discloses conception of all of the above claims. Further, the Declaration and Exhibits B and C attached thereto evidence diligence from such conception until filing of the application. Accordingly, the rejection of claims 9-12, 23-26, 31-33, and 37 is overcome.

For the same reasons the additional pending claims, namely claims 13, 14, 27-30, 34-36, 38 and 39 are also patentable in light of the unavailability of Karves (and McKnight, Application Publication No. 2003/0063732) as a prior art reference.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.


Respectfully submitted,

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